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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DUNN, MISHAWN N

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/884,986	Applicant(s) FUJIE ET AL.	
	Examiner Mishawn N. Dunn	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1,2, 7, 10-13, 18, and 21-23 have been considered but are moot in view of the new ground(s) of rejection.
2. The Examiner withdraws the rejection under the second paragraph of 35 U.S.C. 112 based on Applicant's amendment to more clearly recite the structure of the sending unit.
3. Applicant's arguments filed 01/06/06 have been fully considered but they are not persuasive.
4. In response to Applicant's argument that none of the references disclose program content data including commercial content data, which includes commercial identify and audience response information, the Examiner states that no one reference alone discloses the claimed invention, but that when combined or modified the references teach the claimed invention. Hence, the reason for the 35 USC 103 rejection.
5. Takahashi et al. discloses an apparatus for recording and reproducing a broadcast program comprising a receiver, a memory, and a decoder. In the same field of endeavor, Lyons teaches a sending unit that creates information in response to the viewer's selection. In addition, Natsubori et al. discloses commercial content data, which includes commercial identify information. Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use, to combine the recording/reproducing apparatus of Takahashi et al. with the sending unit of Lyons and

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commercial content data of Natsubori et al, in order to provide an apparatus for recording and reproducing a broadcast program, wherein the commercial content data includes commercial identify information and the sending unit sends the commercial audience response information to the commercial audience response control server.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 9, 10,12-14, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (US Pat. No. 6,463,152) in view of Natsubori et al. (US Pub. No. 20010023433).

8. Consider claim 1. Takahashi et al. teaches an apparatus for recording and reproducing a broadcast program (fig. 1), comprising: a receiver configured to receive program content data, a memory configured to record the program content data received by said receiver (col. 3, line 1); a decoder configured to decode the program content data in case of reproducing the program content data stored in said memory, and to extract information from the decoded program content data (col. 2, lines62-65).

In the same field of endeavor, Natsubori et al. teaches that the program content data includes commercial content data (pg. 4, para. 0073), including commercial identify information, the commercial identify information including a commercial identifier and a

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server address of a commercial audience response control server (pg. 5, para. 0091-0092; fig. 8). Natsubori et al. also discloses a presentation unit configured to inform the viewer of the commercial identify information (pg. 5, para. 0085). In addition, Natsubori et al. teaches that a sending unit creates commercial audience response information in response to the viewer's selection for the commercial identify information, the commercial audience response information including the commercial identifier and an identifier of said apparatus (pg. 5, para. 0093) and to send the commercial audience response information to the commercial audience response control server (pg. 5, para. 0094).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within an apparatus for recording and reproducing a broadcast program (fig. 1), comprising: a receiver configured to receive program content data, a memory configured to record the program content data received by said receiver (col. 3, line 1); a decoder configured to decode the program content data in case of reproducing the program content data stored in said memory, and to extract information from the decoded program content data (col. 2, lines 62-65) as taught by Takahashi et al., the program content data includes commercial content data (pg. 4, para. 0073), including commercial identify information, the commercial identify information including a commercial identifier and a server address of a commercial audience response control server (pg. 5, para. 0091-0092; fig. 8), a presentation unit configured to inform the viewer of the commercial identify information (pg. 5, para. 0085), a sending unit that creates commercial audience response information in

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response to the viewer's selection for the commercial identify information, the commercial audience response information including the commercial identifier and an identifier of said apparatus (pg. 5, para. 0093), and to send the commercial audience response information to the commercial audience response control server (pg. 5, para. 0094), as taught by Natsubori et al., in order to provide a broadcast receiving and playing apparatus that to automatically record a commercial program according to the viewer's response so as to encourage the viewer to watch the commercial program without skipping when recording and reproducing the broadcast program.

9. Consider claim 2. Takahashi et al. teaches the claimed limitations as stated, except that the commercial identify information is multiplexed on the commercial content data.

However, Natsubori et al. teaches that the commercial identify information is multiplexed (added) on the commercial content data (pg. 5, para. 0091).

Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use, within an apparatus for recording and reproducing a broadcast as taught by Takahashi et al., the commercial identify information is multiplexed (added) on the commercial content data, as taught by Natsubori et al., in order to provide broadcast receiving and playing apparatus including commercial content data including commercial identifying information that can be sent to the commercial audience response control server.

10. Consider claim 3. Takahashi et al. teaches the claimed limitations as stated, except that the commercial identify information includes, an available day as an

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effective term, a company name as a commercial sponsor, and a commercial name as a title.

However, Natsubori et al. teaches the commercial identify information includes, an available day, a company, and a commercial name (pg. 5, para. 0091-0092; fig. 8).

Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use, within an apparatus for recording and reproducing a broadcast as taught by Takahashi et al., the commercial identify information includes, an available day as an effective term, a company name as a commercial sponsor, and a commercial name as a title, as taught by Natsubori et al., in order to provide a broadcast receiving and playing apparatus to encourage the viewer to watch the commercial program without skipping when recording and reproducing the broadcast program.

11. Consider claim 9. Takahashi et al. teaches all of the claimed limitations as stated above, except that the said commercial audience response information includes the commercial identifier of the commercial identify information selected by said response operation unit and the user identifier of said apparatus and a user identifier of the viewer through said response operation unit.

However, Natsubori et al. teaches that commercial audience response information includes the commercial identifier of the commercial identify information selected by said response operation unit (pg. 5, para. 0093) and the user identifier of the viewer through said response operation unit (fig. 24).

Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use within an apparatus for recording and reproducing a broadcast program as taught by Takahashi et al. as stated above, a commercial audience response information including the commercial identifier of the commercial identify information selected by said response operation unit and the user identifier of the viewer through said response operation unit, as taught by Natsubori et al., in order for the viewer to receive various kinds of services in proportion to the commercials viewed.

12. Consider claim 10. Takahashi et al. teaches all of the claimed limitations as stated above, except that when the sending unit sends the commercial audience response information to the commercial audience response control server the program response information memory stores the commercial identify information and the user identifier.

However, Natsubori et al. discloses that when the sending unit sends the commercial audience response information to the commercial audience response control server the program response information memory stores the commercial identify information (pg. 7, para. 0114) and the user identifier (pg. 11, para. 0181).

Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use within an apparatus for recording and reproducing a broadcast program as taught by Takahashi et al. as stated above, program response information memory stores the commercial identify information and the user identifier when the sending unit sends the commercial audience response information to the

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commercial audience response control server, in order to create the commercial audience response information.

13. Method claims 2, 12-14, 20, and 21 are rejected using similar reasoning as the corresponding apparatus claims above.

14. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (US Pat. No. 6,463,152) in view of Natsubori et al. (US Pub. No. 20010023433) and in further view of Perlmann (US Pat. No. 6,577,346).

15. Consider claim 23. Takahashi et al. and Natsubori et al. disclose all the claimed limitations as stated above in claims 1-22, except a computer program product for use with a computer.

However, Perlmann discloses a computer program and computer usable medium (col. 12, lines 41-45). Therefore, it would be obvious to one of ordinary skill in the art, at the time the invention was made to use within an apparatus for recording and reproducing a broadcast program including commercial content data, which includes commercial identify information as taught by Takahashi et al. and Natsubori et al., a computer program product, as taught by Perlmann, in order to record and reproduce a broadcast program on a computer.

16. The Examiner incorporates by reference the last action against the claims, since not presently amended.

Allowable Subject Matter

17. Claims 7, 11, 18 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Merhdad Dastouri can be reached at 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mishawn Dunn
January 21, 2006


ROBERT CHEVALIER
PRIMARY EXAMINER